

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
-----X
RICARDO ALMENTEROS,

Plaintiff,

-against-

New York State Corrections and
Community Supervision; ECKERT,
Superintendent, individually and in
their official capacities,

Defendants.

COMPLAINT

22 CV 6236

Civil Action No. _____

JURY TRIAL DEMANDED

-----X



I. COMPLAINT

Plaintiff Ricardo Almenteros, pro se for his complaint states as follows:

II. PARTIES, JURISDICTION AND VENUE

1. Plaintiff Ricardo Almenteros was confined in Wende Correctional Facility, located at 3040 Wende Road, Alden, NY 14004-1187

2. Plaintiff Ricardo Almenteros is, and was at all times mentioned herein, an adult citizen of the United States and a resident of the State of New York.

3. Defendant NEW YORK STATE CORRECTIONS and COMMUNITY SUPERVISION (DOCCS) at all relevant times mentioned herein had a duty to show due regard for Plaintiff's health and safety while Plaintiff was inmate housed in correctional facilities under DOCCS control.

4. Defendant ECKERT, Superintendent at Wende Correctional Facility at all relevant times herein mentioned had a duty to show due regard for Plaintiff's health and safety while Plaintiff was an inmate housed in Wende Correctional Facility.

5. This action arises under and is brought pursuant to 42 U.S.C. section 1983 to remedy the deprivation under color of law (state) of rights guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution. This Court has jurisdiction over this action pursuant to 28 U.S.C. sections 1331 and 1343.

6. This cause of action arose in the Western District of New York. Therefore, venue is proper under 28 U.S.C. section 1391(b).

7. Plaintiff's claim for injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure.

III. PREVIOUS LAWSUITS BY PLAINTIFF

8. Plaintiff has filed no other lawsuits dealing with the same facts involved in this action or otherwise relating to his imprisonment.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Plaintiff filed timely grievances and appealed Inmate Grievance Committee's (IGRC) "constructive denial" of his grievance.

V. STATEMENT OF CLAIM

10. At all relevant times herein defendants were "persons" for purposes of 42 U.S.C. section 1983 and acted under color of law to deprive Plaintiff of his constitutional right, as set forth more fully below.

VI. STATEMENT OF FACTS

11. Since 2018, Almond Plaintiff has been an inmate in the custody of the NEW YORK STATE CORRECTIONS and COMMUNITY SUPERVISION.

12. In May 2021, while being housed in Wende Correctional Facility in D-Block, 20 cell, Plaintiff observed Civilian work crew enter housing unit. Plaintiff asked unknown civilian worker

what was the work crew going to do. The unknown civilian worker told Plaintiff that they were going to remove asbestos. The Plaintiff was inside his assigned cell when the workers were removing the asbestos. A few days later, the Plaintiff's throat became swollen and Plaintiff could not breathe properly. The Plaintiff went to sick call at Wende Correctional Facility Health Services and was given antibiotics after his Lab results were reviewed by Nurse Practitioner Darling. Plaintiff asked medical personnel in Wende Correctional Facility what caused his sickness, the medical providers told Plaintiff that they did not know.

13. Subsequently, Plaintiff filed a grievance asserting that NEW YORK STATE CORRECTIONS and COMMUNITY SUPERVISION, its employees, agents and servants were showing deliberate indifference to his health and safety due to them housing him twice in housing areas where asbestos had to be removed from. The Plaintiff placed his grievance inside Inmate Grievance Committee mailbox outside 24 company in D-Block. The Inmate Grievance Supervisor claimed Plaintiff's grievance was never received by Inmate Grievance Committee. Plaintiff considered Grievance Supervisor's response as a "constructive denial" of his grievance.

14. On or about Jun3 23, 2021, Plaintiff appealed the "constructive denial" of his grievance to Superintendent ECKERT. The Plaintiff contended on appeal that NEW YORK STATE CORRECTIONS and COMMUNITY SUPERVISION, its employees, agents and servants were showing deliberate indifference to his health and safety due to Plaintiff being housed in housing unit and exposed to friable asbestos while workers conducted "dry asbestos abatement." Superintendent ECKERT disregarded Plaintiff's appeal. The Plaintiff did not agree with any determination made by Inmate Grievance Committee, Superintendent, or Central Office Review Committee (CORC). Plaintiff recognized that seeking administrative remedy was an act in futility.

15. On September 29, 2020 Plaintiff who is inmate in custody of NEW YORK STATE CORRECTIONS and COMMUNITY SUPERVISION (DOCCS) was transferred from Elmira Correctional Facility to Wende Correctional Facility and housed in C-Block, 14-company, 8 cell. While in C-Block, Plaintiff observed workers enter C-Block and start removing asbestos causing dust to fill the air and cover floor in C-Block on company where Plaintiff was housed. Plaintiff had difficulty breathing and was told by other inmates that they could not breathe properly. Plaintiff notified Superintendent S. ECKERT (defendant) and Deputy Superintendent of Health Services R. Neal via correspondence about the dangerous conditions in C-Block and mess hall. Neither Superintendent or Deputy Superintendent did anything to remedy this dangerous situation. So, Plaintiff filed grievances and sought monetary damages in good faith effort to resolve that dispute.

16. In July 2021, Plaintiff who was still at Wende prison began to suffer from migraine headaches, extreme pain in him arms, legs, and back. The Plaintiff was unable to eat walk or breathe properly. The Plaintiff did not report his worsening condition to staff because he no longer trusted staff.

17. Plaintiff has attached copies of letters, grievances and other documents generated by this dispute as exhibits.

18. Defendants named in paragraph 4 was employee of NEW YORK STATE CORRECTIONS and COMMUNITY SUPERVISION.

19. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 11 through 16 above in their entirety.

20. As a direct consequence of defendant's indifference to Plaintiff's health and safety, the Plaintiff suffers on a daily basis from shortness of breath, dizziness, extreme pain in his arms, legs, back and is unable to see or walk properly for periods of time.

21. The Plaintiff's condition may produce death, degeneration, or extreme pain.

WHEREFORE, Plaintiff Ricardo Almenteros demands judgment against defendant's and each of them in sum of ten million dollars plus costs and fees.

Dated: 4/16, 2022


Plaintiff Pro Se
Wende Correctional Facility
3040 Wende Rd., Alden, NY
14004-1187

EXHIBITS

INMATE GRIEVANCE COMPLAINT

Grievance No. _____

Wende

CORRECTIONAL FACILITY

Name: Ricardo Almonteros

Dept. No.: _____

Housing Unit: C-14-8

Date: 11/2/2020

Program: AM PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible) In October 29/2020 I went placed in C-14-8 Block and I noticed that asbestos have been removal while I was there. the asbestos have been removal without the appropriate way and a lot dust if was all over the place due to my experience I know that asbestos been removed (dry) and the whole Block was infected. they do not follow the protocol correctly.

Grievant

Signature: Ricardo Almonteros

Grievance Clerk: _____

Date: _____

Advisor Requested YES NO Who: _____

Action requested by inmate: I just want to be out of C-14-8 Block due to my medical condition. I don't want to be exposed to asbestos removal (dry).

The Grievance has been formally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant

Signature: _____

Date: _____

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

* An exception to the time limit may be requested under Directive #4040, section 701.6(g).

Deputy Superintendent of Health Services:

To whom it may concern,

My name is Ricardo Almenteros ID# 18A3441. In October 29, 2020, I was transferred from Elmira Correctional Facility to Wende Correctional Facility. Due to the protocol of COVID-19, i have been in quarantine in C-14 block, but to my surprise they are doing asbestos removal without following all the procedures and I have been exposed to this.

I have a serious medical condition and I want to be out of this environment so I can't be contaminated.

Your attention in this matter will be apreciated.

Thank you.

The reason I'm writing you is the safety violations in C-14 Block, where they have been removing asbestos and I don't want to be around the environment because it is not a safe place for me due to my medical condition.

I wrote a grievance in 11/2/2020 to IGRC Supervisor, but I never received any response. I wrote to Ms. R. Neal and I never received a response to what I said. This is why I'm writing you to let you know what is going on so you can take immediate action to resolve the matter.

Thank you for your time.

N.Y.S. DOCCS

Wende Correctional Facility

Inmate Grievance

Ricardo Almontoros #18A3441

Description of Problem: While I was housed in C-14-8 (From 10/29/20 - 11/13/21) I began experiencing respiratory problems causing me constant coughing and shortness of breath from exposure to thick dust particles as a result of the "asbestos removal" that was being conducted in said area to the disregard of all inmates there. In addition, I am medically disabled, as a prisoner who suffers from Lupus and has to attend dialysis at least three times a week to stay alive!

I have written several informal complaints to the Superintendant(Eckert) about this and received NO response. However, I was ultimately moved a few times until I landed in my current location on 24 company where I am now being subjected to the same unnecessary exposure that has caused the reverberation of above indicated respiratory complications!

Due to the seriousness of asbestos exposure, it can only be considered a grave deriliction of duty by the State/Facility and the outside contractor to not evacuate all areas of people where such removal is being conducted. Especially those like myself who have compromised immune systems that makes them more vulnerable to exasperated conditions or worse - the possibility of death.

Relief Requested: As for the foregoing reasons, I respectfully request that from this point all protocols of asbestos removal to be strictly adhered to as a means of preserving life. Also, pursuant to F.O.I.C. I would like to be provided with the name and location of the outside contractor for the asbestos removal, along with a copy of its safety protocol/manual and license to perform this job.

It is imperative to note here that I would also like to be monetarily compensated with \$500,000 for past asbestos exposure as indicated.

Thank you for your time in this matter.

Respectfully,

Dear IGRC Supervisor,

I am writing this regarding your response dated April 22, 2021, to the filing of my grievance dated April 6, 2021, concerning the liability of such.

Because there are outstanding issues mentioned in said grievance, which is an ongoing matter, I respectfully ask that you file the grievance for processing and allow whatever decision to derive from there officially upon the hearing of it.

I want you to know that when this incident passed I wrote a letter to the superintendent, Mr. S. Eckert, and the Deputy of Health Services, Ms. R. Neal, but I never received an answer back.

Your attention to this matter will be greatly appreciated.

Respectfully,

Wende Correctional Facility

3040 Wende Rd P.O. Box 1187

Alden, NY 14004

Re: Block "Asbestos Abatement"

This is the appeal of a denial of a grievance I submitted regarding the D-Block Asbestos Abatement. I submitted a grievance regarding being kept in the block for and during the abatement of asbestos in D-Block housing.

My concern is that I will be housed on 24-Company during the asbestos abatement under conditions that will expose me to asbestos fibers without the proper abatement protocol being followed.

Keeping me in the housing unit during the abatement of asbestos will expose me further to asbestos fibers as there will not be any secure protocols in place that will guarantee negative air flow and proper cleaning protocols will not be followed leaving me at risk to unnecessary exposure.

Even though some plywood and plastic coverings will be put up; without the installment of an air flow apparatus and proper venting, asbestos fibers will still be able to spread freely, stick to clothing worn by workers, to ceilings and floors and putting me at risk.

I request that proper abatement protocols be followed and that I be moved to a secure asbestos-free housing unit until the abatement is completed.

Respectfully,

I.G.R.C.

This is an ongoing and continuing grievance regarding proper asbestos protocols not being followed. Since starting the asbestos abatement in D Block, there has not been any negative air-flow protocol put in place. No air-flow generator and vents to channel and keep asbestos fibers from blowing in the air. Abatement workers walk around without proper abatement attire; fibers on the walls, ceilings, floor, and spread in the cells. They are conducting a dangerous removal in violation of law.

Action Requested: That proper abatement protocols be followed including the use of exhaust fans and negative air-flow machinery.

EXHIBIT A

3040 Wende Rd P.O. Box 1187

Alden, NY 14004

May 28, 2021

To: Mr. Anthony J. Annucci (Acting Commisioner DOCCS
The W.A. Harriman State Campus, Building #9
1220 Washington Avenue
Albany, NY 12226

Re: Appeal of Denial of Grievance "Asbestos Abatement"

Dear Commisioner Annucci,

This is an appeal of a denial of my grievance related to the asbestos abatement at the above correctional facility in the 0-Block Housing Unit. I was housed on the unit during the asbestos abatement wherein a dry removal was conducted without the proper abatement protocols being followed.

No negative air-flow equipment was ever installed or used during the removal of dry asbestos. Also, I was exposed to asbestos fibers as a result of fibers flowing in the air, clothes of the workers, and the ceilings and floors.

My attempts to have the matter addressed at the facility level have been in vain and mainly fallen on deaf ears.

I filed a grievance and written several letters to the facility superintendant concerning the issue.

I would appreciate it if you can take corrective action in this matter.

Respectfully submitted,

To Whom it may concern,

On or about May 24, 2021 I submitted a grievance concerning ongoing and continuing asbestos abatement removal in the D-Block housing unit. To date, I have not received a response and my grievance has not been filed or processed. [See Exhibit "A" ongoing and continuing]

Action Requested:

That my grievance be processed and filed.

To: Mr. Eckert / Superintendent

RE: "Appeal Constructive Denial of Grievance"

This is an appeal of a constructive denial of a grievance I submitted on May 24, 2021 regarding ongoing and continuing asbestos abatement in the D-Block Housing Unit. To date I have not received a response and my grievance has not been filed.

This is a separate grievance than the one I filed while in C-Block last year and I would not be confused as the same; when it is a totally separate incident. [See exhibit "A" ongoing and continuing grievance and "B" Grievance not processed.

Action Requested:

That proper asbestos abatement protocols be followed and my grievance processed and filed.

To: Mr. Eckert / Superintendent

RE: "Request to have grievance filed and processed

Dear Superintendent Eckhert,

I recently filed a grievance which has not been processed or filed. On May 24, 2021 I filed a grievance concerning ongoing and continuing asbestos abatement removal in the D-Block housing unit. This is a totally different grievance than the one I attempted to file when I was in the C-Block Housing Unit.

I would appreciate it if my grievance is filed and processed in a timely manner you see to it that it does.

Respectfully Submitted,

3040 Wende Road, PO Box 1187

Alden, NY 14004

July 8, 2021

TO: Central Office Review Committee

Grievance Appeal Superintendent's Denial

Department of Corrections and Community Supervision

The W.A. Harriman State Office Campus

1220 Washington Ave, Building 9

Albany, NY 12226

Re: Appeal Superintendent Denial Grievance

Ongoing and Continuing

This is an administrative appeal of a "Constructive Denial" of a grievance I submitted related to the "ongoing and continuing" asbestos abatement in the D-Block Housing Unit at the Wende Correctional Facility.

On or about 5/24, 2021, after being housed for a second time in a housing unit during an unconstitutional asbestos abatement. (See exhibit "A" Ongoing and Continuing"

Said grievance was never filed and processed and I never received a hearing etc.

On or about 6/23, 2021, I submitted an appeal to the superintendent of the "Constructive Denial" of my grievance was submitted to the superintendent Eckert. [See Exhibit "B" Appeal to Superintendent Eckert of ongoing and continuing grievance]

It has been more than 30 days and I have not received a decision from Superintendent Eckert regarding my "ongoing and continuing" grievance. Said delay is considered to be a constructive denial and this appeal ensues.

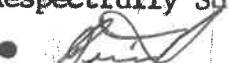
Appellant was exposed to friable asbestos prior to and during a "dry asbestos abatement", while incarcerated at Wende Correctional Facility. The administration failed to protect appellant from such exposure and were, are, and continue to be deliberately indifferent to my health and well being in violation of the Eighth Amendment to the United

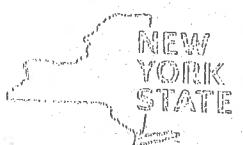
the following Federal OSHA regulations and New York State regulations were violated:

1. 29 C.F.R. §1910.120 Hazardous Waste Operations and Emergency Response
2. 29 C.F.R. §1915.1001, App B Detailed Procedures for Asbestos Sampling and Analysis
3. 29 C.F.R. §1926.1101 Asbestos
4. 29 C.F.R. §1915.1001 App. F. Work Practices and Engineering Controls for class I asbestos operations non-mandatory
5. 39 C.F.R. §71.702 Asbestos Standard
6. 40 C.F.R. §61.145 Standard for demolition and renovation
7. 40 C.F.R. §763.91 Operations and Maintenance
8. 12 NYCRR 56-7.4 Establishing each regulated abatement work area
9. 12 NYCRR 56-7.5 Personal and waste decontamination system enclosures
10. 12 NYCRR 56-7.6 Personal Protective Equipment [PPE]
11. 12 NYCRR 56-7.9 Heating, Ventilation, and Air Conditioning [HVAC] Systems
12. 12 NYCRR 56-7.10 Regulated Abatement work area pre-cleaning
13. 12 NYCRR §56-8.3 Regulated asbestos work area entry and exit procedures
14. 12 NYCRR §56-8.4 Handling and removal procedures
15. 12 NYCRR §56-8.5 Waste Cleanup Procedures
16. 12 NYCRR §56-8.9 Equipment and waste container decontamination and removal procedures
17. 12 NYCRR §56-9.1 Final Cleaning Procedures
18. 12 NYCRR §56-9.2 Air sampling requirements
19. 12 NYCRR §56-10.4 Removal of waste from the site
20. 12 NYCRR §56-11.4 Pre-demolition asbestos abatement projects
21. 12 NYCRR §56-11.5 Controlled Demolition with Asbestos Abatement Projects
22. 12 NYCRR §56-11.6 Exterior project removal of non-fragile and roofing, siding, caulking, glazing, compound, transite, transfealed coatings and other non-acids.

Finally, appellant/grievant request to be compensated for all injuries sustained as a direct result of blatant civil rights violations.

Respectfully Submitted,

 # 18A3441



ANDREW M. CUOMO
Governor

Corrections and
Community Supervision

ANTHONY J. ANNUNCI
Acting Commissioner

WENDE CORRECTIONAL FACILITY
MEDICAL DEPARTMENT

TO: Almenteros, Ricardo
DATE: 7/29/21
FROM: Darling NP
SUBJECT: Medical - lab results

INMATE # 18 A 3441
BLOCK D-24-20

1. This is to acknowledge the receipt of your letter dated
2. Please follow sick call procedure so that your health concerns can be addressed.
3. You are scheduled for an outside clinic appointment.
4. I have verified that you are already on a list from a previous request. Please check the medical callout.
5. Other: I received a fax from the hospital WCH

where you had your upper endoscopy. They took a sample and you have an infection that could be why you are having those symptoms with swallowing. I am putting you on 2 different antibiotics (amoxicillin and clarithromycin) for 7 days each. You can continue to take the other now medicine (amitriptyline) during these 7 days.

franks

Hi! Ms Darling

I received a letter from you explaining to me about the medical-lab results and I'm really surprised about this infection that I could be Why I have those symptoms with swallowing but at the same time I have a question that I would like to have an answer.

Why I have this infection because I never was positive for COVID-19 or other disease? and besides where this infection come from? Can you please explain to me this?

I, ROBERT HILL, here in affidavit, having been duly sworn, declares that by affidavit and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief.

That, on the Month of October 29, 2020 until November 12th 21
I was Housed on G-14 Company-(p cell), while Housed
on Said Company (c-14) the Cell next door to my Cell
(7-cell) had an HazMat Covering on the Front of
the Cell Bars. Their where Several other Cells down
the Company that had HasMat Coverings on them. But
the Front Top part over the Motor Box was not Cover
up with the HazMat Covering. that Top part was exposed
open to the Company. Private outside Contractors where
doing Construction work in the Cells that had the Hazmat
Covering on them. the outside Contractors where doing Contract
Construction work in the Cells, Fixing the Toilets that
Potentially exposed Me and other Inmates on the Company
to Lead and asbestos exposure At Wende Correctional Facility

Pursuant to 28 USCA §1746, I declare under penalty of perjury that the forgoing is true and correct.

2. That affiant is competent to state the matter included in his/her declaration, has knowledge of the facts, and declared to the best of his/her knowledge, that statement made in his/her affidavit are true, correct, and not meant to mislead.

"Without Prejudice"

Robert Hill
Signature

14A 5004
ID

I, Andrew L. Hotchkiss, herein affidavit, having been duly sworn, declares that by affidavit and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief.

That, on the months of May and June, 2021 there was an asbestos abatement occurring in the D-Block housing unit at Wende Correctional Facility. During this process, proper protocols were not followed to ensure the safety of the residents/inmates living on the floor where the abatement was taking place. The only precaution that was taken was the installation of plastic sheeting between the workers and cells. In addition, the plastic sheeting did not cover the entire area, leaving gaps of 4 or more inches at both the top and bottom. As a result, there was asbestos dust prominently spread over the floors, walls, and ceilings of the housing unit. There was no negative air-flow or ventilation systems installed or running during the removal of this dangerous hazard, risking the health and wellness of all inmates who were assigned to live in these cells.

Pursuant to 28 USCA S1746, I declare under penalty of perjury that the foregoing is true and correct.

2) That affiant is competent to state the matter included in his/her declaration, has knowledge of the facts, and declared to the best of his/her knowledge, that statement made in his/her affidavit are true, correct, and not meant to mislead.

"Without Prejudice"

Andrew L. Hotchkiss
Signature.

15-A-4718
ID

I, Stephen F. Kuber, here in affidavit, having been duly sworn, declares that by affidavit and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief.

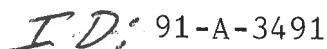
That, on or about April, 2021 through June, 2021
the State of New York, Department of Correction and Community
Supervision (DOCCS), Wende Correctional facility, did allow
(A-G-D contracting Corp.) contractors for asbestos removal, to conduct
a dry asbestos removal from D-Block flats, (19- and 24- Companies)
failing to properly seal and keep inviolate the areas where such
asbestos was being extracted from; and passing into areas where
the inmate population were housed. This caused asbestos fibers
and dust to infiltrate into the breathing air of the inmate pop-
ulation, in violation of the OSHA protocols and safety regulations
for asbestos removal.

Wherein the affiant hereby declares that he has experienced
severe mental and emotional hardship, while great concern for his
physical health is weighing heavily upon his mind, knowing the
danger that DOCCS has placed him in due to these negligent practices
Pursuant to 28 USCA S1746, I declare under penalty of perjury that the foregoing is true and
correct.

2) That affiant is competent to state the matter included in his/her declaration, has
knowledge of the facts, and declared to the best of his/her knowledge, that statement made in
his/her affidavit are true, correct, and not meant to mislead.

"Without Prejudice"


Signature. Stephen F. Kuber III


I.D. 91-A-3491

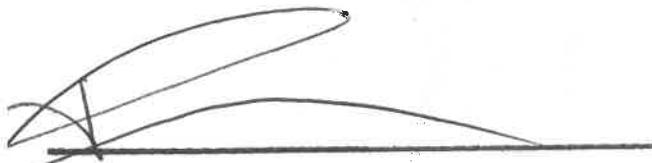
I, Kasiem Williams, here in affidavit, having been duly sworn, declares that by affidavit and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief.

That, on April and May 2021 they were conducting Asbestos removal and a lot of dust was all over the place; to the point where we could not breath pure air. They were doing dry removal.

Pursuant to 28 USCA S1746, I declare under penalty of perjury that the foregoing is true and correct.

2) That affiant is competent to state the matter included in his/her declaration, has knowledge of the facts, and declared to the best of his/her knowledge, that statement made in his/her affidavit are true, correct, and not meant to mislead.

"Without Prejudice"



Signature.

ID: 11B1776

I, Nigel Smith, her in affidavit, having been duly sworn, declares that by affidavit and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief.

That, on D Block 24 company, there had worker doing asbestos removal, and to my surprise there was a lot of dust all over the place, they were doing dry removal - without care about us being there, we can't breath pure air because Asbestos Fibers was everywhere, we was exposed to all the Asbestos fibers that was in the air that we was breathing. Asbestosis, lung cancer, mesothelioma. in the fact we was exposed to Second hand Asbestos.

Pursuant to 28 USCA S1746, I declare under penalty of perjury that the foregoing is true and correct.

2) That affiant is competent to state the matter included in his/her declaration, has knowledge of the facts, and declared to the best of his/her knowledge, that statement made in his/her affidavit are true, correct, and not meant to mislead.

"Without Prejudice"

Nigel Smith

Signature.

15B3203

ID

AFFIDAVIT OF TRUTH

I, Dorian Bahr here in affidavit, having been duly sworn, declares that by affidavit and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief.

That, on The months of May and June 2021 there was asbestos removal occurring in the D-Block housing unit at WENDE Correctional Facility. While this process was going on, Proper Protocols were not followed to ensure the safety of the inmates living on the floor where the removal was taking place. The only Precaution that was taken was the installation of Plastic sheeting between the workers and cells. In addition, the sheeting did not cover the entire area, leaving gaps of 4 or more inches at both the top and bottom. As a result, there was asbestos dust spread over the floors, walls, and ceilings of the housing unit. There was no negative air flow or ventilation systems installed during the removal risking the health and safety of the inmates. Pursuant to 28 USC § 1746, I declare under penalty of perjury that the foregoing is true and correct.

That affiant is competent to state the matter included in his/her declaration, has knowledge of the facts, and declared to the best of his/her knowledge, that statement made in his/her affidavit are true, correct, and not meant to mislead.

“Without Prejudice”

Dorian Bahr
Signature

Inmate ID# 19B0744

I, Jose' Quendo, here in affidavit, having been duly sworn, declares that by affidavit and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief.

That, on Pasts months they were removing asbestos and
dust was all over the place. We can not see
each other through the certain smoke that was
in the unit. They do not use water and either
followed the proper protocol to perform the job.

Pursuant to 28 USCA S1746, I declare under penalty of perjury that the foregoing is true and correct.

2) That affiant is competent to state the matter included in his/her declaration, has knowledge of the facts, and declared to the best of his/her knowledge, that statement made in his/her affidavit are true, correct, and not meant to mislead.

"Without Prejudice"

ID: 16A5038

Signature.

I, Jerry Carter, here in affidavit, having been duly sworn, declares that by affidavit and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief.

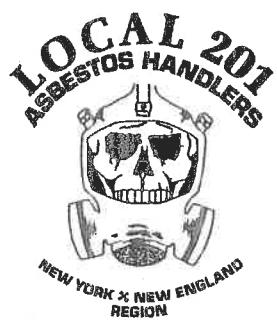
That, on April and May the contractor
were doing Asbestos removed and a lot of
dust was all over the place and no
can not brief Safety They didn't use water
or anything water base to removal of the
Asbestos that is left over

Pursuant to 28 USCA 51746, I declare under penalty of perjury that the foregoing is true and correct.

2) That affiant is competent to state the matter included in his/her declaration, has knowledge of the facts, and declared to the best of his/her knowledge, that statement made in his/her affidavit are true, correct, and not meant to mislead.

"Without Prejudice"

Jerry Carter ID:
Signature. 0840670



ASBESTOS WORKERS LOCAL 201 EDUCATION & TRAINING FUND

PO Box 2010

Wappingers, NY 12590

Phone (845) 463-1700 / Fax (845) 463-1717

CERTIFICATE OF COMPLETION TO CERTIFY THAT

Ricardo Almentane

Has successfully completed the 10-hour Occupational
Safety and Health Training Course

This is a temporary certificate. This shall serve as documentation to
the completion of this session until a OSHA completion card is
obtained

113-84-0108
SSN#

8/2/06
COURSE DATE

No Expiration
Expiration Date

OSHA 10
Certificate No. 80603

Instructor



ASBESTOS WORKERS LOCAL 201 EDUCATION & TRAINING FUND



PO Box 2010
Wappingers, NY 12590

Phone (845) 463-1700 / Fax (845) 463-1717

CERTIFICATE OF COMPLETION
TO CERTIFY THAT

RICARDO ALMENTEROS

has successfully completed the 1 day Permit Required Confined Space
Course designed to help meet the requirements of OSHA 1910.146

113-84-9108
SSN#

Instructor

01/12/07
COURSE DATE

NONE
Expiration Date

CS-010711
Certificate NO.



Cornerstone Training Institute presents a

Certificate of Completion

On January 8th, 2009

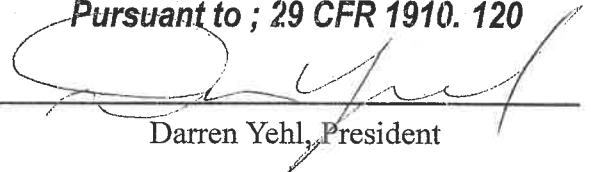
Ricardo Almenteros

For

8hour HAZWOPER Refresher

Hazardous Waste Operations & Emergency Response

Pursuant to ; 29 CFR 1910. 120



Darren Yehl, President

1680 Lyell Avenue Suite 200 Rochester NY 14606 585 319 3625

ASBESTOS WORKERS LOCAL 201 EDUCATION & TRAINING FUND



PO Box 2010
Wappingers, NY 12590

Phone (845) 463-1700 / Fax (845) 463-1717

CERTIFICATE OF COMPLETION
TO CERTIFY THAT

RICARDO ALMENTEROS

has successfully completed the Lead Awareness course required for Lead
Workers and designed to meet the requirements of 29CFR 1926.62

113-84-9108

SSN#

01/12/07

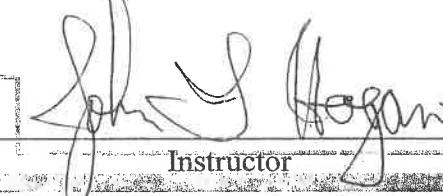
COURSE DATE

NONE

Expiration Date

LEAD AWARENESS

Certificate No. 010711


Instructor

WENDE CORRECTIONAL FACILITY
3040 WENDE RD
ALDEN, NY 14004-1667

Ricardo Almenteros #18A3441
INMATE NAME
NUMBER

USDC - WDNV

MAY 24 2022
BUFFALO



CERTIFIED MAIL

To: Clerk U.S. District
Court
United States Court
Buffalo, New York
14202-3350

LEGAL MAIL